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July 2, 2019

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 4  
AFC Bldg, 61 Forsyth Street., S.W., 9th Flr (4PM/IF)  
Atlanta, GA 30303-8960

*Submitted via online portal*

**Re: FOIA Request**

Dear Region 4 Freedom of Information Officer:

Pursuant to the provisions of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, on behalf of the Humane Society of the United States ("HSUS"), I hereby request the following records from the Environmental Protection Agency ("EPA"):

1. Any and all records pertaining to the issuance of permits under federal environmental statutes to the following poultry slaughtering and processing facilities: (a) the House of Raeford facility located at 410 Sunset Boulevard, West Columbia, SC 29169, (b) the Columbia Farms West Columbia facility located at 338 Sunset Boulevard, West Columbia, SC 29169, (c) the Mar-Jac Poultry facility located at 1020 Aviation Boulevard, Gainesville, GA 30501, and (d) the Pilgrim's Pride facility located at 949 Industrial Boulevard, Gainesville, GA 30501.
2. Any and all records pertaining to federal inspections conducted pursuant to federal environmental statutes and any documents discussing compliance or lack thereof with such federal environmental statutes for the following poultry slaughtering and processing facilities: (a) the House of Raeford facility located at 410 Sunset Boulevard, West Columbia, SC 29169, (b) the Columbia Farms West Columbia facility located at 338 Sunset Boulevard, West Columbia, SC 29169, (c) the Mar-Jac Poultry facility located at 1020 Aviation Boulevard, Gainesville, GA 30501, and (d) the Pilgrim's Pride facility located at 949 Industrial Boulevard, Gainesville, GA 30501.

3. Any and all records pertaining to formal or informal enforcement actions taken by EPA pursuant to federal environmental statutes against the following poultry slaughtering and processing facilities: (a) the House of Raeford facility located at 410 Sunset Boulevard, West Columbia, SC 29169, (b) the Columbia Farms West Columbia facility located at 338 Sunset Boulevard, West Columbia, SC 29169, (c) the Mar-Jac Poultry facility located at 1020 Aviation Boulevard, Gainesville, GA 30501, and (d) the Pilgrim's Pride facility located at 949 Industrial Boulevard, Gainesville, GA 30501.

Please limit your search to records from January 1, 2014 to the date the EPA begins processing this request. This request is intended to apply to records maintained, controlled, or otherwise retained by EPA (including any and all divisions of EPA that maintain related materials). Please provide the responsive records in electronic format.

As used in this request, the term "records" includes but is not limited to any reports, studies, financial materials, webinars, electronic presentations, correspondence including recorded messages, memoranda, meeting notes and minutes, drafts and working papers, notes and summaries of conversations and interviews, electronic mail messages (e-mails), audits, audit reports, contracts, agreements, technical proposals, noncompliance reports, consumer complaints, third-party complaints (e.g. complaints from the general public or employees within the agency), presentations, graphic material, video, and any other form of written, electronic, or recorded information.

If you believe that certain portions of records are subject to an exemption under FOIA, please redact any such portions with direct reference to the claimed exemption and produce all non-exempt portions of those documents. *See* 5 U.S.C. § 552(b). For exempted materials, please provide a full or partial denial letter and sufficient information to appeal the denial. At a minimum, please include in this letter basic factual information regarding the denial, including the originator, date, length, and addresses of the withheld items; all explanations and justifications for the denial, including any direct statutory or regulatory references; and how each exemption applies to the withheld materials.

## **Fee Waiver**

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), HSUS requests a fee waiver for this FOIA request. Federal agencies must release records without charge or at a reduced charge "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l). Both the legislative history and administrative and judicial interpretations of FOIA uniformly make clear that the "fee waiver provision 'is to be liberally construed in favor of waivers for non-commercial requesters.'" *Schoenman v. FBI*, 604 F.Supp.2d 174, 192 (D.D.C. 2009) (quoting *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir.1987) (quoting 132 Cong. Rec. 27, 90 (1986) (Sen. Leahy))).<sup>1</sup> A waiver of search, review, and duplication fees is

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<sup>1</sup> The legislative history of the fee waiver provision reveals that it was added to FOIA "in an attempt to prevent government agencies from using high fees to discourage certain types of requesters, and requests," such as those from journalists, scholars, and nonprofit public interest groups. *See Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984).

warranted here because disclosure of the requested records meets FOIA's two-part test for a fee waiver.

Disclosure of the records to HSUS is "likely to contribute significantly to public understanding of the operations or activities of the government." *See* 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l). One of HSUS's top organizational priorities is combatting the harms industrialized animal agriculture causes to animal welfare, the environment, and public health. Through its work on this issue, HSUS contributes to the public's understanding of federal agencies' operations, their policies and activities relating to environmental regulation in connection to industrial animal agriculture, and the health and environmental impacts of industrial animal agriculture.<sup>2</sup> HSUS often disseminates information concerning the health and environmental impacts of industrial animal agriculture to its members and the public.<sup>3</sup> To further this public interest and the organization's goal of educating the public about these issues, HSUS has submitted several petitions to EPA to control harmful emissions from industrial agriculture.<sup>4</sup> HSUS has millions of members and constituents nationwide, including members in all 50 states and in the District of Columbia. Because of its wide membership and constituent base, the organization is particularly well-suited to distribute the requested information to individuals and others who may be interested in it.

The information requested would contribute significantly to the public's understanding of federal environmental regulation of industrialized animal agriculture, specific poultry slaughtering and processing facilities' compliance with these regulations, and the risks to public health from these facilities. HSUS intends to use the information received to communicate this information to other interested individuals. HSUS routinely distributes data, news releases, reports, and copies of original documents to the public directly and to members of the media to generate informative articles. HSUS also distributes, at no charge, its own information and information obtained from other sources regarding policies and activities relating to animal agriculture, consumer awareness,

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<sup>2</sup> *See e.g., Help animals = Help the Earth: Factory Farming Is one of the Leading Causes of Global Warming and Environmental Damage*, HUMANE SOCIETY OF THE U.S., <https://www.humanesociety.org/resources/help-animals-help-earth> (last visited June 10, 2019); and *see, e.g., HSUS, Factory Farming in America: The True Cost of Animal Agribusiness for Rural Communities, Public Health, Families, Farmers, the Environment, and Animals*, available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-factory-farming-in-america-the-true-cost-of-animal-agribusiness.pdf>.

<sup>3</sup> *See e.g., HSUS, An HSUS Report: The Impact of Industrialized Animal Agriculture on Rural Communities*, available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-the-impact-of-industrialized-animal-agriculture-on-rural-communities.pdf>; and *see e.g., HSUS, An HSUS Report: The Impact of Industrialized Animal Agriculture on the Environment*, available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-the-impact-of-industrialized-animal-agriculture-on-the-environment.pdf>.

<sup>4</sup> *See HSUS et al., Petition to List Concentrated Animal Feeding Operations Under Clean Air Act Section 111(B)(1)(A) of the Clean Air Act, and to Promulgate Standards of Performance under Clean Air Act Sections 111(B)(1)(B) and 111(D)* (Sept. 21, 2009), available at <http://www.humanesociety.org/assets/pdfs/litigation/hsus-et-al-v-epa-cafo-caa-petition.pdf> (urging EPA to hold industrial agriculture facilities accountable for the harms they cause to public health and the environment); and *see, See Env'tl. Integrity Project et al., Petition for the Regulation of Ammonia as a Criteria Pollutant under Clean Air Act Sections 108 and 109*, available at <http://www.environmentalintegrity.org/documents/PetitiontoListAmmoniaasaCleanAirActCriteriaPollutant.pdf> (requesting EPA to include ammonia as a criteria pollutant due to harmful impacts on public health and the environment).

and environmental and public health.<sup>5</sup> Consumers of this information include scientists, students, governmental entities, the regulated community, media outlets, and the general public. HSUS is a non-profit advocacy and education organization with a national reach and a commitment to a “sustainable world for all animals,” and thus is particularly well-suited to distribute the requested information to individuals and others who may be interested in it.

Additionally, HSUS has no commercial interest in the requested information. HSUS is the nation’s largest animal protection organization, and it is dedicated to attacking the biggest threats to animals to end suffering for all animals. As a 501(c)(3) nonprofit organization, HSUS does not have a commercial, trade, or profit interest in the information requested, and the organization is not requesting “trade secrets and commercial or financial information obtained from a person and privileged or confidential,” as defined by FOIA, or any other information exempted pursuant to 5 U.S.C. § 552(b).

In summary, HSUS believes that this request satisfies the legal criteria for a fee waiver:

1. The disclosure of the requested records would be to the primary benefit of the general public. HSUS has demonstrated its ability to review, compile, and disseminate to the general public the information it acquires. This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts. A fee waiver must be granted when the public interest in disclosure is greater in magnitude than the requester’s commercial interest. See DOJ, FOIA Update, Vol. VIII, No. 1, at 9, *available at* <https://www.justice.gov/oip/blog/foia-update-new-fee-waiver-policy-guidance>.
2. HSUS is a nonprofit public interest group. The records requested relate to government activities that will contribute to public understanding of EPA’s regulation and oversight of certain poultry slaughtering and processing facilities. The information sought is of significant public interest. The primary purpose for the request is to further public understanding and knowledge of how the federal government regulates these types of establishments and how such facilities impact the environment and public health. Because of its size and proven ability to disseminate information to a large segment of the public, HSUS is well suited to contribute to the public’s understanding of federal agencies’ policies and activities relating to the regulation of food animal production facilities. Furthermore, HSUS is not seeking information exempted by FOIA.

HSUS believes that it has sufficiently met the criteria for a public interest fee waiver for this records request. Indeed, HSUS often receives a fee waiver on its FOIA requests.<sup>6</sup> If, however, the

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<sup>5</sup> See, e.g., Kitty Block, *HSUS Asks Feds to Investigate Pilgrim’s Pride’s Misleading Claims About Its Chickens*, Humane Soc’y of the U.S.: A Humane World (Dec. 12, 2018), [https://blog.humanesociety.org/2018/12/hsus-asks-feds-to-investigate-pilgrims-prides-misleading-claims-about-its-chickens.html?credit=blog\\_post\\_011719\\_idhome-page;\\_How\\_to\\_Decipher\\_Egg\\_Carton\\_Labels](https://blog.humanesociety.org/2018/12/hsus-asks-feds-to-investigate-pilgrims-prides-misleading-claims-about-its-chickens.html?credit=blog_post_011719_idhome-page;_How_to_Decipher_Egg_Carton_Labels), Humane Soc’y of the U.S., [http://www.humanesociety.org/issues/confinement\\_farm/facts/guide\\_egg\\_labels.html](http://www.humanesociety.org/issues/confinement_farm/facts/guide_egg_labels.html) (last visited Jan. 18, 2019); HSUS, *An HSUS Report: Food Safety and Cage Egg Production* (May 2011), *available at* [http://www.humanesociety.org/assets/pdfs/farm/report\\_food\\_safety\\_eggs.pdf](http://www.humanesociety.org/assets/pdfs/farm/report_food_safety_eggs.pdf).

<sup>6</sup> See, e.g., Apr. 17, 2014 Letter from Arianne Perkins, USDA FSIS Acting FOIA Director, to Peter Brandt, HSUS Senior Attorney, FOIA-2014-00224 (“Based on my review of your April 14, 2013, letter and for the reasons stated

waiver is denied and the request will involve more than two search hours or more than 100 pages of documents, or fees will exceed fifty dollars (\$50.00), please notify us immediately by telephone before the request is processed. This will allow HSUS to decide whether to pay the additional fees or to appeal the denial of the request for waiver.

Thank you for your attention to this request. Please do not hesitate to contact Margie Robinson at **(202) 676-2369** if you need any further information or require any clarification regarding this request. Please confirm receipt of, and provide response to, the above request within twenty business days as required by law under FOIA. 5 U.S.C. § 552(a)(6)(A)(i). If this office is not the appropriate place for this request, please forward the request to the correct office or individual and inform us when doing so.

Sincerely,

/s/ Margaret Robinson

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/s/ Peter Brandt

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herein, I have determined that your fee waiver request does sufficiently meet all of the criteria under the FOIA and the applicable regulations"); May 11, 2015 Letter from Alex Webb, U.S. Army Corps of Eng'rs Assistant District Counsel, to Amanda Hungerford, HSUS Attorney, FOIA Request FA-15-0022; Feb. 27, 2019 Letter from Arianne Perkins, USDA FSIS Director of Freedom of Information Act Staff, to Margaret Robinson, HSUS Attorney, FOIA Request FOIA-2019-00140.